

FISCAL NOTE

Bill #: HB0391

Title: Criminal case mediation

Primary Sponsor: Hamilton, R

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	unknown	unknown
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	unknown	unknown

- | | |
|-------------------------------------------------------------------|--------------------------------------------------------|
| <input checked="" type="checkbox"/> Significant Local Gov. Impact | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

Judiciary

1. The legislation may impact District Court caseloads but the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact.
2. This bill creates criminal proceedings mediation. The defendant and the prosecution pay the cost of mediation equally, except if a defendant is eligible for a public defender, then the prosecution will pay the mediation costs. Local government city/county attorney offices pay prosecution costs therefore; there is no fiscal impact to the Judicial Branch.

Department of Justice (DOJ)

3. The Department of Justice assumes that the proposed legislation sets out a new option, suggested by a court, but only with the consent of the parties, of mediation in criminal cases. However, there is no reference to different or additional case resolutions and it is assumed that the result would be the current options explorable and attainable through plea negotiations. The process would require consideration of mediation by a court and the parties and would involve mediators that are knowledgeable of all aspects of criminal law, including trial considerations, sentencing concerns, and post-conviction remedies.

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(continued)

4. Mediation as described in HB 391 would impact any DOJ criminal cases and certainly cases handled by the Prosecution Services Bureau, as they handle a number of crimes not excepted out in section 1 of the bill. It would be impossible to estimate how many of these cases would be subject to the new law.
5. Because the costs would be split between the prosecution and the defense or would be borne by the prosecution where a public defender is involved, it is assumed that the prosecution would be required to pay the costs of a mediator, travel expenses associated with a mediation conference (both attorneys, the mediator, etc.), witnesses costs associated with a mediation conference, and the documents necessary for the mediation. The costs of a mediator would be substantial, assuming the mediator was trained, experienced, and willing to take the time to do the job. Such professionals commonly bill for each hour spent. Public defenders also bill by the hour. In DOJ-prosecuted cases, DOJ would have to pay staff attorneys additional salary to engage in mediation. The process would include additional hours for attorneys on both sides to schedule the mediation and to decide the confidentiality issues thereafter.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This bill will affect cities and counties as the costs of mediation in these cases are to be paid by the prosecution, which are funded by local governments.